1946.

File No. Hay Trade II/46

Legal Department

B **BRANCH**

P.5(E)/1946

Subject:

Rules and Notifications under Bombay Hay Trade Licence Order 1944.

File No. Hay Trade II/46.

Gen. 194 e.

#28-B

Office of the R.L.A.

Clause 6 of the Bombay Hay Trade Licensing Order, 1944 provides that if the holder of a license granted under this Order has made any false declaration in his application for a license or contravenes any of the conditions mentioned in the license granted to him, the licensing authority may without prejudice to any other action that may be taken against such holder suspend or cancel his license. Caluse 4 of the license in Form E lays down that the licensee shall comply with any directions that may be given to him from time to time by the Licensing Authority in regard to the purchase, sale, transport storage or accounting of hay. "Directions" contemplated are regulatory in nature (see R.L.A's opinion No 5638, dated 31.7.1945). The fixation of the price of hay would not be a direction that can be validly issued under caluse 4 of the license in Form E. Consequently, the breach of the circular issued by the Milk Commissioner in the present case fixing the price of hay and requiring the licensees not to sell at a rate in excess of the price thus fixed, would not be a valid direction the disobedience to which would justify the cancellation of their licenses. What is necessary for the purpose would be to amend the Bombay Hay Trade Licensing Order, 1944 providing for power to fix the price of hay and to suspend or cancel the license of a hay dealer for the breach of any of the provisions of the Order also.

2. The requisite draft Order amending the Bombay Hay Trade Licensing Order, 1944, for the prupose in view is sent herewith.

3. As the Order will affect a class of persons, in addition to its publication in the Bombay Government.

Gazette, it will have to be published in the manner prescribed by rules made under section 6(1)(a) of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom XXII of 1946). If no such rules have been made so far, the Milk Commissioner is advised not to issue the Order, before rules prescribing the manner of publication are framed.

Sd/. D.V.Vyas

O.C.

Remembrancerof Legal Affairs.

U1R. to C.S.D., No. 9481, dated the 28th December 1946

Mjr/12/7

4 Cs.

R. I N. 9101
17-10-46

Submitted with reference to M. C's Office note dated 14-10-46 at p 12 ante. The first question for consideration is whether any reference to the B mbay Essential Commodities and Cattle (Control) Act, 1946, is necessary at the top of the four licence forms at pp 3 to 9 ante. As pointed out in R.L.A's opinion No. 6917 dated the 14th October 1946 (p11 ante) section 5 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, saves the Bombay Hay Trade Licence Order, 1944, hay being one of the essential commodities within the meaning of Schedule I to the Act. The order the-refore still continues in force and it is not necessary to refer to the Bombay Essential Commodities nd Cattle (Control) Act, 1946.

2. The next question is whether any amendment of the forms is necessary so as to enable the issue of renewed licences. It has already been pointed out that a rubber stamp with renewal endorsement will not be sufficient but that in view of the reference to the renewal fee of Re. 1/- in para 1 of each of the licence forms, it is necessary to issue a fresh licence after deleting the reference to the payment of the fee of Rs. 5/- for original licences The M.C's office cannot in view of the wording of the licence forms, avoid issuing fresh renewed licences.

3. The case is wanted back immediately by the M.C's office

Please carry on the amendments as directed by me

S.K.Chaudhari
8/10

D.S.Deshmukh
8-10

Resubmitted : The ~~form~~ forms at pp 3-9 ante have been corrected as directed. The H.T.L. O will be found in file V. 290 below
D.S.Deshmukh

The necessary changes are made in the four license forms (pp 3-9-) sent by the milk Commissioner.

Sd/- S.H.Chaudhari
19/10

D.S.

Sd/- A.R.Khan
19/10

Mjr/12/7

4 Cs.

Office of the R.L.A.

The necessary changes are made in the four license forms (pp 3-9) sent by the Milk Commissioner.

Sd/- A.R. Khan

p.c.

For Remembrancer of Legal Affairs.

U.R. to the Milk Commissioner, No 7180, dated 21.10-46

Mjr/12/7

4 Cs.